

ATTORNEY OR PART NAME, ADDRESS, TELEPHONE & FAX NUMBERS, AND CALIFORNIA STATE BAR NUMBER Michael S. Kogan (SBN 128500) ERVIN, COHEN & JESSUP LLP , 9401 Wilshire Blvd., 9 th Floor Beverly Hills, CA 90212, (310) 273-6333; Fax (310) 859-2325	FOR COURT USE ONLY
UNITED STATES BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA	
In Re: McPHILLIPS MOTORS, INC. dba ACURA OF RIVERSIDE Debtor(s)	CASE NO.: 6:09-bk-37488-RN

NOTICE OF SALE OF ESTATE PROPERTY

Sale Date: January 7, 2010	Time: 10:00 a.m.
Location: 3420 Twelfth Street, Riverside, CA 92501, Courtroom 301	

Type of Sale: ☒ Public ☐ Private Last Date to File Objections: _____

Description of Property to be Sold: sale of substantially all of the Business assets of Acura of
Riverside car dealership

Terms and Conditions of Sale: as-is with no warranties whatsoever as to condition, subject to liens

Proposed Sale Price: See attached notice of hearing

Overbid Procedure (If Any): \$100,000 initial bid greater than offer submitted to Court (\$100,000
deposit to overbid)

If property is to be sold free and clear of liens or other interests, list date, time, and location of hearing: see above
(1/7/10 @ 10:00a.m., Courtroom 301) Contact Person for Potential Bidders (include name, address, telephone, fax
and/or e-mail address):

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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
RIVERSIDE DIVISION

In re	)	Case No. 6:09-bk-37488-RN
)	
MCPHILLIPS MOTORS,	)	Chapter 11
)	
Debtor.	)	NOTICE OF MOTION OF DEBTOR FOR
	)	SALE OF PROPERTY FREE AND CLEAR
	)	OF LIENS AND ASSUMPTION AND
	)	ASSIGNMENT OF EXECUTORY
	)	CONTRACTS INCLUDING GENERAL
	)	MOTORS SALES AND SERVICE
	)	AGREEMENTS
)	
	)	Date: January 7, 2010
	)	Time: 10:00 a.m.
	)	Place: Courtroom 301
)	
)	
)	

PLEASE TAKE NOTICE that on January 7, 2010, the Honorable Richard Neiter, United States Bankruptcy Judge in Courtroom 301 of the United States Bankruptcy Court for the Central District of California, located at 3420 Twelfth Street, in Riverside, California 92501 (the "Court") will hear the Motion Of Debtor For Sale Of Property Free And Clear Of Liens And Assumption And Assignment Of Executory Contracts (the "Motion") filed by McPhillips Motors, Inc. dba Acura of Riverside (the "Debtor"). The Motion is based on the concurrently filed Memorandum

IDOCs:13741.2:986111.1

**NOTICE OF MOTION OF DEBTOR FOR SALE OF PROPERTY FREE AND CLEAR OF LIENS AND
ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS**

1 of Points and Authorities, the Declaration of David F. McPhillips (the "McPhillips Declaration")
2 attached thereto, the arguments and statements of counsel to be made at the hearing on the Motion,
3 and other admissible evidence properly brought before the Court.

4 The Debtor is a licensed car dealer in the business of selling, leasing and repairing new and
5 used Acura vehicles (the "Business"). Pursuant to the Motion, the Debtor, hereby moves the Court
6 and seeks an order, pursuant to Sections 363 and 365 of Title 11 of the Bankruptcy Code (the
7 "Bankruptcy Code"), approving the sale of substantially all of the Business assets (the "Purchased
8 Assets") subject to certain liens, and also free and clear of all other liens, claims and interests to
9 Hendrick Automotive Group, or its designee ("Hendrick" or "**Buyer**") pursuant to the Asset
10 Purchase Agreement (the "Agreement") entered into between the Buyer and the Debtor. The
11 Buyer owns multiple automobile dealerships in various locations across the United States. These
12 dealerships are performing well financially. The sale will be noticed to all previous interested
13 parties to the Purchased Assets, and to creditors and other interested parties.

14 The Debtor believes that all burdens of establishing a sound business justification for the
15 sale of the Purchased Assets have been met:

- 16 1. The Debtor believes that the purchase price (the "Consideration") maximizes the
17 value of the Purchased Assets to the estate.
- 18 2. The terms of the sale with the Buyer have been negotiated at arms-length and the
19 consideration for purchase of the Purchased Assets is fair and reasonable, and
20 represents the fair market value for the Purchased Assets.
- 21 3. Additionally, the Debtor has satisfied all procedural requisites of notice of the
22 Motion to obtain Court approval of this sale.
- 23 4. The terms of the proposed sale are embodied in the Agreement, which is attached
24 as Exhibit "A" to the Motion and incorporated herein by this reference.

25 The Consideration is the best offer that the Debtor has received and expects to receive for
26 the Purchased Assets. The Consideration is valued at least \$2,500,000, which includes \$1,200,
27 000 for blue sky. Furthermore, to maximize the greatest value for this estate and its creditors,
28 parties offering to purchase the Purchased Assets, shall have the opportunity to overbid

1 ("Overbid") for the purchase of the Purchased Assets, on substantially the same or better terms as
2 set forth in the Agreement. Any initial overbid for the Purchased Assets shall be in an amount not
3 less than one hundred thousand dollars (\$100,000.00) greater than the Buyers offer, and the
4 procedures for Over bidders are set forth more fully in the Motion. Any and all additional
5 Overbids will be subject to any further Overbid amount requirements, set by the Court.

6 Any other parties interested in bidding on the Assets ("Interested Bidders") should
7 complete a Bidder Qualification Package provided by American Honda to the Debtor. In addition,
8 any Interested Bidders, must by no later than **December 31, 2009**, submit a deposit of \$100,000
9 (the "Deposit"), such Deposit to be delivered by cashier's check or wire transfer payable to the
10 Trust Account of Ervin Cohen & Jessup LLP in the amount of \$100,000. The Bidder Qualification
11 Package has been provided to the Debtor, and the Debtor will provide the Bidder Qualification
12 Package to all potential bidders of which it is aware, or who had inquired regarding the Debtor's
13 assets. Interested Bidders should complete the Bidder Qualification Package such that it will be
14 received by American Honda no later than **December 31, 2009** (the "Bidder Qualification
15 Package Deadline").

16 **FOR COMPLETE DETAILS OF THE OVERBID PROCEDURE AND OTHER**
17 **DETAILS OF THE SALE ANY INTERESTED PARTY SHOULD CONSULT THE**
18 **MOTION.**

19 Any party desiring a copy of the Motion, Memorandum of Points and Authorities,
20 the Agreement, and Declaration of David McPhillips may review the file at the Court or contact
21 the attorneys for the Debtor for a copy.

22 Anyone who wishes to oppose the Motion must do so in a writing that complies
23 with the rules of practice and procedure before the United States Bankruptcy Court for the Central
24 District of California, and pursuant to Local Bankruptcy Rule 9013-1(1)(g), and must ensure that
25 such opposition is filed with the Court no later than fourteen (14) days prior to the hearing on the
26 Motion. Any such opposition must also be served on counsel to the Debtor at the following
27 address:
28

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and on the United States Trustee. Any opposition not so filed and served may be deemed to constitute consent to the relief requested in the Motion and a waiver of the right to be heard at the hearing on the Motion.

Wherefore, the Debtor respectfully requests that the Court authorize the sale of the Purchased Assets and assumption and assignment of executory contracts pursuant to the terms of the Agreement and granting to the Debtor such other relief necessary and appropriate.

DATED: December 15, 2009

ERVIN COHEN & JESSUP LLP

By: /s/ Michael S. Kogan
Michael S. Kogan
Attorneys for McPhillips Motors, Inc.